HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SHRI JUSTICE G.V. SEETHAPATHY

WRIT APPEAL NO. 324 OF 2006

And

W.A.M.P.NO.675 OF 2006

BETWEEN

Tharagala Nageshwar Rao & another

.....Appellants

And

Andhra Pradesh Generation Corporation Ltd.,
Hyderabad & another

.....**Respondents**

WRIT APPEAL NO. 330 OF 2006

And

W.A.M.P.NO.694 OF 2006

BETWEEN

K. Laxma Reddy & others

.....Appellants

And

The A.P. Generation Corporation Ltd.,
Hyderabad & another

.....**Respondents**

:: COMMON JUDGMENT ::

Counsel for the Appellants : Shri C. Damodar Reddy

Counsel for the Respondents : Shri V.S.K. Rama Rao

Dated: 03.07.2006

Per G.S. SINGHVI, CJ

These appeals are directed against order dated 21.02.2006 passed by the learned Single Judge whereby he dismissed the writ petitions filed by the appellants for quashing the selection made by the Chief Engineer (O & M), Kothagudem Thermal Power Station, V-Stage, Paloncha, Khammam District (respondent No.2) for appointment to the post of Junior Plant Attendants and for issue of a mandamus to the respondents to appoint them as Junior Plant Attendants pursuant to notification No. CEE/O&M/KTPS/V/F.No. 33/D.No.503/99, dated 02.02.1999.

A perusal of the record shows that in pursuance of advertisement issued by respondent No.2 for recruiting 222 Junior Plant Attendants in Kothagudem Thermal Power Station, the appellants submitted their respective applications. Their names did not figure in the list of selected candidates. They filed writ petitions questioning the selection made by respondent No.2 primarily on the ground that weightage of 40 per cent additional marks given to the casual labourers has resulted in violation of their fundamental right to equality guaranteed under Article 14 and 16 of the Constitution of India. They further pleaded that by having successfully completed the apprenticeship training, they had become entitled to preferential treatment in the matter of appointment and this aspect was arbitrarily overlooked by respondent No.2 by preparing the selected list.

The learned Single Judge negated the appellants' challenge by recording the following observations:

> "……While it is not in dispute that persons who had undergone apprenticeship are entitled for preference in appointment, that does not mean that they are entitled to be appointed without undergoing

a regular process of selection. It is open to the respondents to prescribe a fair and reasonable procedure and criteria for selection of candidates.

Sri C. Damodar Reddy, learned counsel for the petitioners, strenuously contends that if the respondents had, in fact, undertaken the exercise of review in compliance with the orders of this Court in **K. Ravinder** (2 supra), there would have been a specific averment in this regard in the counter affidavit. I have no reason to disbelieve the statement of the learned standing counsel that the respondent-Corporation had undertaken the exercise of reviewing the selection process pursuant to the judgment of this Court in **K. Ravinder** (2 supra) and inasmuch as the petitioners are said to have secured lesser percentages, than the last selected candidates in the respective categories, I see no reason to interfere with the impugned selection process or to give a direction that the cases of the petitioners be considered for appointment."

Shri C. Damodar Reddy, reiterated the grounds taken by the appellants in the writ petition and argued that the order under challenge is liable to be quashed, because the learned Single Judge did not correctly appreciate the appellants' challenge to the criteria adopted for the purpose of selection.

We have given serious thought to the argument of the learned counsel, but have not felt impressed.

In our opinion, it is not necessary to go into the correctness or otherwise of the reasons recorded by the learned Single Judge for declining relief to the appellants because we are convinced that the writ petitions ought to have been dismissed on the ground of non-impleadment of the selected candidates as

party respondents. It needs no emphasis that the candidates, who had been selected and were appointed as Junior Plant Attendants, had acquired a valuable right to hold the posts and they could not be deprived of this right without being heard.

The applicability of rules of natural justice to quasi-judicial, judicial and administrative proceedings is well recognized and, in our opinion, the Courts are equally bound to adhere to this rule and no order to the prejudice of any person can be passed unless he is given an effective opportunity of hearing.

Since the appellants did not implead the selected candidates as party respondents, the selection and appointments made by respondent No.2 cannot be nullified.

The alternative prayer made by the appellants is also liable to be rejected because in the writ petitions filed by them, the appellants neither pleaded nor any evidence has been produced before the Court to show that their names were included in the selected list and that sufficient number of vacant posts were available for their appointment as Junior Plant Attendants. That apart, in view of the appellants plea that the selections made by respondent No.2 is vitiated due to violation of doctrine of equality, a writ of mandamus cannot be issued compelling the respondent No.2 to appoint them as Junior Plant Attendants.

For the reasons mentioned above, the appeals are dismissed.

At this stage, learned counsel for the appellants made a request that his clients may be granted leave to file fresh petition after ascertaining the particulars of selected candidates and impleading them as parties.

Learned counsel for the respondents objected to the

request made by the learned counsel for the appellants, but in the facts and circumstances of the case, we deem it proper to accept the request of the learned counsel and grant leave to his clients to file fresh petition(s). Ordered accordingly.

It is however made clear that respondents and the selected candidates shall be free to contest the fresh writ petitions on all available grounds including the ground of delay and latches.

G.S. SINGHVI, CJ

G. V. SEETHAPATHY, J

03.07.2006
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